

Chairman Vap called the regularly scheduled meeting to order at 10:02 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present.

#### GENERAL ADMINISTRATION

Notice was duly published May 31, 2005 on Page 8 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held June 7, 2005 at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceedings:

#### Tuesday, June 7, 2005:

C-3429 Commission Hearing Room, Lincoln.  
11:00 In the Matter of Sprint Communications Company L.P. (Sprint), Overland Park, Kansas, seeking a petition for arbitration under the Telecommunications Act of certain issues associated with the proposed interconnection agreement between Sprint and Southeast Nebraska Telephone Company. Commissioner Landis presiding as Hearing Officer.

B-1277 Commission Hearing Room, Lincoln.  
1:30 In the Matter of Brian L. Mills, dba Fantasy Limousine, Omaha. Commissioner Boyle presiding as Hearing Officer.

Rule and Commission Hearing Room, Lincoln.  
Regulation In the Matter of the Commission, on its own motion, seeking  
#157A to amend Title 291, Chapter 9, Natural Gas and Pipeline  
2:00 Rules and Regulations, to adopt rules in accordance with  
Nebraska Legislative Bill 790 [2003]. Commissioner Landis  
presiding as Hearing Officer.

#### Wednesday, June 8, 2005:

C-3304 Commission Hearing Room, Lincoln.  
9:30 In the Matter of Touchtone Communications, Inc., Whippany, New Jersey, seeking authority to operate as a resale common carrier of telecommunications services within the State of Nebraska. Commissioner Rod Johnson presiding as Hearing Officer.

GW-2135/ Commission Hearing Room, Lincoln.  
GWC-397 In the Matter of John A. Fecht, Director Warehouse Depart-  
GD-2135/ ment, Complainant, v. Wilhelm Grain, Inc., Humboldt,  
GDC-397 Defendant. Commissioner Jerry Vap presiding as Hearing  
1:30 Officer.

GENERAL ADMINISTRATION (Cont.)

Friday, June 10, 2005:

NG-0023.1 Video Hearing. Commission Library, Lincoln and McMillen  
10:00 Hall, Room 208, 1205 East 3rd Street, McCook. In the  
Matter of Kinder Morgan, Inc., Lakewood, Colorado, seeking  
approval of Plan of Action to implement supply cost adjust-  
ment rate schedules applicable to Nebraska Rate Schedules  
CGS (Choice Gas Service), ACGS-NSS (Agricultural Choice Gas  
Service Non-Seasonal Service), and ACGS-SS (Agricultural  
Choice Gas Service. Commissioner Landis presiding as  
Hearing Officer.

COMMUNICATIONS DEPARTMENT

C-3361 In the Matter of Qwest Corporation, Denver, Colorado, seek-  
ing revision of updated Exhibit A to Statement of Generally  
Available Terms and Conditions(SGAT): Motion made by Commissioner  
Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an order  
granting the application. Motion passed with Commissioners Anne  
Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting  
AYE.

C-3381/ In the Matter of the Commission, on its own motion, seeking  
DC-70 2004 Annual Report Filings: Motion made by Commissioner  
Lowell Johnson, seconded by Commissioner Anne Boyle, to  
enter an order granting partial dismissal. Motion passed with Commis-  
sioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and  
Jerry Vap voting AYE.

C-3400 In the Matter of Qwest Corporation, Denver, Colorado,  
Filing Under Protest of the Commercial Agreement with Ionex  
Communications North, Inc., fka Advanced Communications Group and  
Firstel, Inc., Addison, Texas for the Provision of Qwest Platform Plus  
Service (QPP): Motion made by Commissioner Rod Johnson, seconded by  
Commissioner Lowell Johnson, to enter an order granting the applica-  
tion. Motion passed with Commissioners Anne Boyle, Lowell Johnson,  
Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3414 In the Matter of Affinity Network Incorporated, Los  
Angeles, California, seeking authority to use the trade  
name of Optic Communications in the state of Nebraska: Motion made by  
Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to  
enter an order granting the application. Motion passed with Commis-  
sioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and  
Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3407 In the Matter of Citizens Telecommunications Company of Nebraska, Mound, Minnesota, seeking an amendment to the interconnection agreement for wireline network interconnection with Level 3 Communications, LLC, McLean, Virginia, previously granted in Docket C-2858: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3429 In the Matter of Sprint Communications Company L.P. (Sprint), Overland Park, Kansas, seeking arbitration under the Telecommunications Act of certain issues associated with the proposed interconnection agreement between Sprint and Southeast Nebraska Telephone Company: Shana Knutson updated the Commission on the status of the docket.

Gene Hand discussed the Federal Communications Commission Order Docket CC 01-92 that develops a unified intercarrier compensation regime. The reply comment date was extended from June 22 to July 20, 2005.

Gene Hand discussed the Qwest/Mobius Communications Company Commercial Line Sharing Agreement. Upon agreement of all Commissioners, the staff was directed to develop a proposed policy for receipt of agreements between carriers that are not subject to the requirements found in Sections 251 and 252 of the Act and to open a docket to seek comment on the policy.

Gene Hand shared some promotional materials that Time Warner is using to introduce their digital telephone service.

NATURAL GAS DEPARTMENT

NG-0007.1 In the Matter of the Tariff for natural gas service available in the entire territory served by Aquila, Inc., d/b/a Aquila Networks - Nebraska, filed December 22, 2004: Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to enter an order approving the Settlement Agreement submitted by the Public Advocate and Aquila Networks. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

RULES AND REGULATIONS

Rule and Regulation to amend Title 291, Chapter 5, Telecommunications Rules and Regulations, to add rules for incumbent local exchange carriers with an affiliated competitive local exchange carrier serving in the same territory:  
#164

## RULES AND REGULATIONS

Rule and (Cont.)

Regulation Motion made by Commissioner Frank Landis, seconded by  
#164 Commissioner Lowell Johnson, to enter an order issuing a  
Certificate of Adoption. Motion passed with Commissioners  
Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap  
voting AYE.

Rule and In the Matter of the Commission, on its own motion, seeking  
Regulation to amend Title 291, Chapter 5, Telecommunications Rules and  
#165 Regulations, to add rules for designating eligible telecom-  
munications carriers in Nebraska for the purpose of receiv-  
ing federal universal service support: Shana Knutson reported that  
authorization to proceed had been received from the Governor's Policy  
Research Office on June 2, 2005.

## WEB AND TECHNOLOGY REPORT

Commissioner Jerry Vap thanked Tyler Frost, Mike Bartels  
and Cheryl Elton for their work on implementing the new email system.

## LEGISLATIVE REPORT

Commissioner Anne Boyle recommended that Commissioner Jerry  
Vap serve as the Commission Representative for the LB 689 Distance  
Education Task Force. The Commission directed the staff to draft a  
Letter of Recommendation for Commissioner Vap.

Angela Melton reported on the final status of legislation  
the Commission had tracked during the Legislative Session that con-  
cluded June 3, 2005. The following Legislative bills were passed  
during the 2005 session:

### Grain

#### LB52

- Cleans up language in grain dealer and warehouse acts.
- Gives the Commission the authority to inspect Test Weight  
measuring devices.

#### LB439

- Provides for a direct ship storage program.
- Changes the dealer bond calculation by excluding any direct  
shipped transactions which are satisfied by a storage  
position within 24 hours.

LEGISLATIVE REPORT (Cont.)

LB492

- Codifies existing law regarding lien priority on grain seized by the Commission.
- Provides for notice to the Commission when a creditor intends to seek foreclosure of liens on stored grain.

Commission Action Required: A rule and regulation proceeding will be necessary to revise existing rules to include the lien language, change the dealer bond calculation, and to establish a procedure for inspecting test weight measuring devices. Other changes were included in the rule and regulation that was recently sent to the attorney general's office for approval. An initial draft of the proposed rules has been completed for circulation to industry and other interested parties. We will also be seeking permission to open a proceeding formally.

E911

LB516

- Permits the Commission to apply for or assist any political subdivision in applying for federal or other funds available for 911 or E911 service.

Commission Action Required: A rule and regulation proceeding will be necessary to revise existing rules. Proposed rules are currently being drafted to include these changes and others. We will also be seeking permission to open a proceeding formally.

Communications

LB645

- Prohibits a political subdivision from providing retail broadband, telecommunications, video or Internet services.
- Prohibits a public power supplier from providing wholesale broadband, Internet, telecommunications or video services until December 31, 2007.
- Establishes a broadband services task force, including three members of the Public Service Commission.
- The task force shall examine a variety of issues relating to the provision of broadband, Internet, telecommunications, or video services by agencies or political subdivisions.

Commission Action Necessary: Appointments to the task force must be completed within thirty days of the effective date of the act. The Commission will need to submit a recommendation regarding appointments to the Legislative Council.

LEGISLATIVE REPORT (Cont.)

LB689

- Establishes the Distance Education Enhancement Task Force.
- The task force will develop a plan to upgrade and coordinate distance education in Nebraska.
- The task force will include one representative of the Commission, to be appointed by Executive Board of the Legislative Council no later than June 15, 2005.

Commission Action Required: Provide a recommendation regarding the representative of the Commission to the Executive Board.

Housing

LB319

- Gave the Commission fining authority for violations of the Nebraska Uniform Standards for Modular Housing Units Act or the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or any Commission rule or order.

Commission Action Required: Language in the Act does not conflict with current rules and regulations. Changes will be incorporated in the next housing rule and regulation proceeding.

Transportation/Railroad

LB471

- Permits a rotating amber light to be displayed on any vehicle owned by or operated on behalf of a railroad carrier that is used to transport people.

Commission Action Required: No action needed at this time. We will review rules and regulations.

Miscellaneous

LB247

- Clarifies the administrative revocation power of the Commission to include any common or contract carrier or jurisdictional utility.

Commission Action Required: No action necessary at this time. We will review rules and regulations.

LB373

- Provides for additional notifications in rule and regulation proceedings to the executive board of the Legislative Council and to the standing committee with subject matter jurisdiction over the issue involved.

LEGISLATIVE REPORT (Cont.)

- Further provides for the information to be sent to the member of the Legislature who was the primary sponsor of the bill or amendment that gave rulemaking authority.
- Permits any member of the Legislature who feels aggrieved by the amendment, rule or regulation or feels that it is beyond the agencies authority to file a complaint with the executive board of the Legislative Council which will be forwarded to the standing committee with subject matter jurisdiction and the primary sponsor.
- If the standing committee or primary sponsor concludes the complaint has merit, they may request written responses from the agency.
- The bill does not affect any rule or regulation adopted or noticed for hearing prior to October 1, 2005.

Commission Action Required: The Commission will have to modify its internal procedures to ensure compliance in new rule making proceedings.

TRANSPORTATION DEPARTMENT

MCC-3154 In the Matter of Mark J. Breiner, Director, Motor Transportation Department, Complainant, vs. Mike's Moving, Omaha, Defendant: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to enter an order to cease and desist and assess a civil penalty. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Rate Division

TR-144 In the Matter of City Cab, Fremont, seeking authority to adjust its rates and charges: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an order granting the application on an emergency basis. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

BR-304 In the Matter of R & A Transport, LLC, York, seeking authority to adjust its rates and charges: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to enter an order granting the application on an emergency basis. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

MR-930 In the Matter of Movers and Warehouse Division, Nebraska Motor Carriers Association, Lincoln, seeking authority to establish a fuel surcharge in Nebraska Official Household Goods Tariff 7-F: The fuel surcharge was increased to 46 cents per mile.

GRAIN WAREHOUSE DEPARTMENT

John Fecht discussed the following shortages:

GW-462      Countryside Cooperative, Firth:    Oats  
GW-2021      Cooperative Producers, Inc., Hastings:    White Corn.  
GW-2103      Husker Coop, Columbus:    Oats.  
GW-2136      Pierce Elevator, Inc., Pierce:    Soybeans.

GW-2127      In the Matter of The Scoular Company, Venango, et. al.,  
                 seeking a \$25,000.00 deductible on its stock insurance:  
Motion made by Commissioner Frank Landis, seconded by Commissioner  
Lowell Johnson, to grant the application. Motion passed with  
Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis,  
and Jerry Vap voting AYE.

GENERAL ADMINISTRATION

Motion made by Commissioner Lowell Johnson, seconded by  
Commissioner Frank Landis, to approve the following Commission  
invoices. Motion passed with Commissioners Anne Boyle, Lowell  
Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Dept. of Corrections	\$ 808.53
Ted Burkey	1,565.00
Fast Signs	582.50
Robert Bowman	691.28
Fred Massing	993.29
Gerald Vap	58.32

NEBRASKA EQUIPMENT DISTRIBUTION PROGRAM

Aksarben TDD Service	1,000.00
Alternative Hearing	230.00
Carl A. Johnson	2,173.45
Johnson Hearing Aid Service	129.96
League of Human Dignity	996.85
Professional Hearing Aid Services	1,009.85
R & J Enterprises	3,254.79
Sherard Hearing Aid Center	1,721.60
Teltex	460.30
Hearing Clinic Inc	460.00
Western ENT Associates	707.33
Weitbrecht Communications	6,086.25

Motion made by Commissioner Frank Landis, seconded by  
Commissioner Rod Johnson, to approve Commission minutes for May, 2005.  
Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod  
Johnson, Frank Landis, and Jerry Vap voting AYE.



GENERAL ADMINISTRATION (Cont.)

Motion made by Commissioner Frank Landis, seconded by Commissioner Anne Boyle, to authorize surplus of Vehicle #9728, a 1999 Ford Taurus. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to authorize the purchase of a new vehicle. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Upon agreement of all Commissioners, authorization was granted for Mike Bartels to attend the Association of American Warehouse Control Officials Annual Conference to be held in San Antonio, Texas, from August 6-10, 2005.

Upon agreement of all Commissioners, authorization was granted for Don Gray to attend an Industry Numbering Council meeting to be held in Overland Park, Kansas from June 14-16, 2005.

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There being no need to address any matters in closed session, the meeting adjourned at 10:40 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present. The next regularly scheduled meeting will be held on June 14, 2005, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on June 13, 2005.

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Chairman

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Executive Director